

Essential Commodities (Uttar Pradesh Amendment) Act, 1975

18 of 1975

CONTENTS

1. Short Title And Extent
2. Deemed Repeal Of Sections 3, 4, 5, 6 And 8 Of U.P. Act No. 9 Of 1974
3. Amendment Of Section 2 Of Act X Of 1955
4. Amendment Of Section 3
5. Substitution Of New Section For Section 6-A
6. Insertion Of New Section 6-Bb
7. Amendment Of Section 9-C
8. Validation
9. Repeal And Savings

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An Act further to amend the Essential Commodities Act, 1955, in application to Uttar Pradesh It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows,-- 1. Received the assent of the President on 31.3.1975 and published in U.P. Gazette, (Extraordinary), dated 31st March, 1975.

1. Short Title And Extent :-

(1) This Act may be called the Essential Commodities (Uttar Pradesh Amendment) Act, 1975. (2) It extends to the whole of Uttar Pradesh.

2. Deemed Repeal Of Sections 3, 4, 5, 6 And 8 Of U.P. Act No. 9 Of 1974 :-

Sections 3, 4, 5, 6 and 8 of the Essential Commodities (Uttar Pradesh Amendment) Act, 1974 shall be deemed to have been repealed by the Essential Commodities (Amendment) Act, 1974, with effect from June 22, 1974.

3. Amendment Of Section 2 Of Act X Of 1955 :-

In Section 2 of the Essential Commodities Act, 1955, as amended

in its application to Uttar Pradesh, hereinafter called the principal Act, before clause (a), the following clause shall be inserted, namely,-- "(aa) Collector includes -such officer not below the rank of an Assistant Collector of the first class as may be authorised by the Collector to exercise the powers conferred on him by or under the provisions of this Act."

4. Amendment Of Section 3 :-

In Section 3 of the principal Act,-- (a) in sub-section (2) for clause (f), the following clause shall be substituted and deemed always to have been substituted, namely,-- "(f) for requiring any person holding in stock, or engaged in the manufacture or production of or in the business of buying or selling, any essential commodity to sell the whole or a specified part of the quantity held in stock or manufactured or produced by him or received or likely to be received by him in the course of said business of buying or selling, to the Central Government or a State Government or to an officer or agent of such Government or to such other person or class of persons and in such circumstances as may be specified in the order. Explanation.--An order relating to foodgrains made with reference to this clause,--(I) may specify the price fixed by Central Government in this behalf after taking into account the recommendations, if any, of the Agricultural Prices Commission as the amount which shall be paid for the foodgrains required to be sold under the order; (II) may fix the quantity to be sold by each producer with reference to the area under cultivation for production of the particular food grains to which the order relates;" (b) in sub-section (3), for clause (c), the following clauses shall be substituted and be deemed always to have been substituted, namely,-- (c) in the case of foodgrains, where neither clause (a) nor clause (b) applies, the amount, if any, specified in the said order made with reference to clause (f) of subsection (2); (d) where neither clause (a), nor clause (b), nor clause (c) applies, the price calculated, at the market rate prevailing in the locality at the date of sale"; (c) in sub-section (3-B), after clause (i), the following clause shall be inserted and be deemed always to have been inserted, namely,-- "(i-a) in the case of foodgrains, where no controlled price is fixed by an order made with reference to clause (c) of sub-section (2), the amount specified in the said order made with reference to clause (f) of subsection (2), for such grade or variety of foodgrains."

5. Substitution Of New Section For Section 6-A :-

For Section 6-A of the principal Act, the following section shall be

substituted, namely-- "6-A. (1) Where any essential commodity is seized in pursuance of an order made under Section 3 in relation thereto a report to this effect shall, without any unreasonable delay, be sent to the Collector of the district in which the seizure is made, and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity and whether, or not a prosecution is instituted for the contravention of such order, the Collector, if satisfied there has been contravention of the order, may order confiscation of,-- (a) the essential commodity so seized; (b) any package, covering or receptacle in which such essential commodity is found; and (c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity : Provided that, without prejudice to any action that may be taken under any other provisions of this Act, no foodgrains or edible oil-seeds seized in pursuance of an order made under Section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oil-seeds have been produced by him, be confiscated under this Section : Provided further that where any animal, vehicle, vessel or other conveyance is used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay in lieu of its confiscation a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried. (2) Where the Collector on receiving a report of seizure or on inspection of any essential commodity under sub-section (1) is of the opinion that such essential commodity is subject to speedy and natural decay or that it is otherwise expedient in the public interests so to do, he may order the same to be sold at the controlled price, if any, fixed under any law for the time being in force, or where no such price is fixed, by auction : Provided that in the case of foodgrains where there is no controlled price, the Collector may order the foodgrains seized to be sold through fair price shops at the price fixed by the Central Government or the State Government as the case may be, for the sale of such foodgrains to the public through these shops : Provided also that whenever it is practicable so to do having regard to the nature of the essential commodity he shall take and preserve sample of the same before its sale of auction. (3) Where any essential commodity is sold as aforesaid, the sale proceeds, thereof, after deduction of the expenses of the sale or auction, as the case may be, shall,-- (a) where no order of confiscation is ultimately passed by the Collector; or (b) where an order passed on appeal under sub-clause (1) of Section 6-C so requires; or (c) in the case

of a prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this Section, where the person concerned is acquitted,-- be paid to the owner thereof or the person from whom it is seized : Provided that in the case of foodgrains sold through fair price shops in accordance with the first proviso to sub-section (2), the owner shall be paid for the foodgrains so sold the price fixed by the State Government, for retail sale of such foodgrains through such shops less all expenses of sale or auction under sub-section (2)."

6. Insertion Of New Section 6-Bb :-

After Section 6-B of the principal Act, the following section shall be inserted, namely,-- "6-BB. Review.-- (1). Where the Collector is satisfied that an order of confiscation or an order refusing confiscation made under Section 6-A suffers from a mistake apparent on the face of the record (including any mistake of law, he may within one month of such order issue notice to the owner of the essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance, or, as the case may be, the person from whom it was seized, to show cause why that order should not be reviewed, and after giving him a reasonable opportunity of being heard, pass such order or review as he thinks fit. (2) The provisions of Section 6-C and 6-D shall apply in relation to an order passed on such review as they apply in relation to an order passed originally under Section 6-A."

7. Amendment Of Section 9-C :-

In Section 6-C of the principal Act, in sub-section (2) for the words "such person shall be paid", the words "such person shall, except as provided by sub-section (3) of Section 6-A, be paid" shall be substituted.

8. Validation :-

Notwithstanding any judgment, decrees or order of any Court, any order relating to foodgrains made under Section 3 of the principal Act, with reference to clause (f) of sub-section (2) of that Section before the commencement of this Act shall be deemed to have been made under the said section amended by Section 4 of this Act as if the provisions of the said Section 4 were always in force and shall accordingly be deemed to be and always to have been valid.

9. Repeal And Savings :-

(1) The Essential Commodities (Uttar Pradesh Amendment) Ordinance, 1975 (U.P. Ordinance No. 5 of 1975), as hereby

repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act, came into force on January 25, 1975.